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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,392	06/22/2001	John R. Hampton	41394-00009USPT	7158

7590 02/13/2004

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EXAMINER
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POPOVICS, ROBERT J

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/887,392

Applicant(s)

HAMPTON ET AL.

Examiner

Robert J. Popovics

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1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 2, 12 and 22-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/9/01.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group I and sleeve sub-species 1 (claims 1,3-11,13 and 15-21) in the Response of 1/23/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The Election/Restriction requirement is made **FINAL**.

Applicant is requested to cancel the non-elected claims in his next response.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5,7-8,11,13 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 and 17 contain the trademark/trade name TEFLON®. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See Ex parte Simpson, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and

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not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe PTFE and, accordingly, the identification/description is indefinite.

In claim 8, the recitation "the rigid support" appears to lack clear positive antecedent basis. It appears that claim 8 should properly depend from claim 7 where "a rigid support" is first introduced. See claim 20.

In claim 11, it is unclear what Applicant intends by "towards," in the context used.

In claim 13, it is unclear if Applicant intends to introduce a second "sleeve" using the recitation "sleeve member." It is unclear which structure this corresponds to in the figures.

***Claim Rejections - 35 USC § 102***

Claims 1,3-4, 9-11,13,15-16 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Gill (US 2,302,116). See cylindrical shell 33, which is seen to meet the claimed "sleeve" limitation.

Claims 1,3-11 and 15- 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ayers (US 4,539,107). See tube 42, which is seen to meet the claimed "sleeve" limitation.

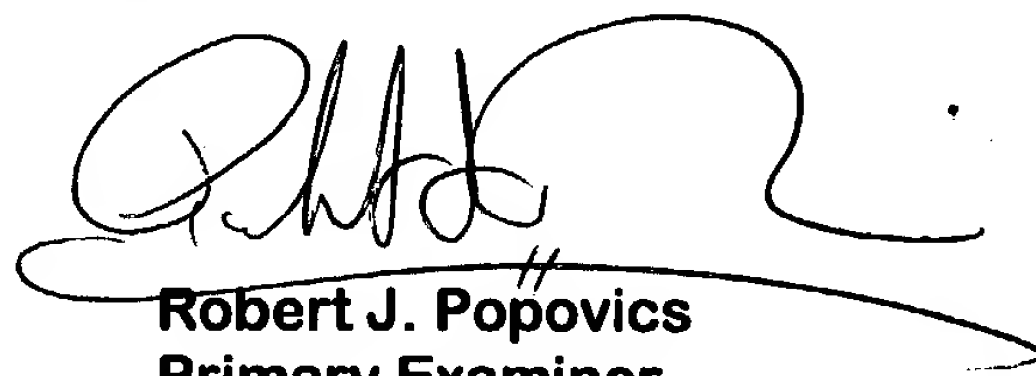
Claims 1,3-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Graves (US 5,306,425). See tube 80 (Fig. 3), which is seen to meet the claimed "sleeve" limitation.

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Claims 1,3-5,7-8,10,15-16 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris (US 4,420,392). See outer cup 52 and/or inner cup 66, which is seen to meet the claimed "sleeve" limitation.

Claims 1,3,7,9-11,15-16, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Shinaver (US 4,456,529). See baffle member 132, which is seen to meet the claimed "sleeve" limitation.

Any inquiry concerning this communication should be directed to Robert J. Popovics at telephone number (571) 272-1164.



Robert J. Popovics  
Primary Examiner  
Art Unit 1724

February 9, 2004